

Notice of Allowability

Application No.

10/722,750

Examiner

Joseph W. Drodge

Applicant(s)

ZEIHER ET AL.

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment and Terminal Disclaimer filed August 4, 2004.
2. ☒ The allowed claim(s) is/are 2-9, 12, 14-19, 26-28 and 30-32, now renumbered claims 1-21.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 0804.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Martin on August 25, 2004.

The application has been amended as follows:

In claim 2, in line 1 "1" has been replaced with -- 7 -- , in line 2 -- other than leakage -- has been inserted after "parameter" and in lines 3-5 ", wherein said process parameter are selected from the group consisting of operational parameter, chemical parameter, mechanical parameter, a percent recovery a normalized permeate flow, a differential pressure, a hydraulic holding time and combination thereof" has been deleted.

In line 3 of each of claims 3 through 9, 12 and 26 and in claim 14, lines 3-4 "comprising the steps of" has been replaced with -- , wherein said monitoring substantially consists of --.

In each of line 4 of each of claims 3 through 9, 12 and 26 and claim 14, line 5 "an" has been replaced with -- at least one -- .

In each of line 6 of each of claims 3 through 9 and 12, claim 14, line 9 and claim 26, line 8 "a" has been replaced with -- at least one-- .

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In each of line 8 of each of claims 3 through 9 and 12, claim 14, line 11 and claim 26, line 10 "the fluorometer" has been replaced with -- the at least one fluorometer-- .

Each of claims 11, 20 through 25 and 29 has been canceled without prejudice.

In claim 12, in line 10 "the inert" has been replaced with -- an inert -- and "the amount of the formulation" has been replaced with -- an amount of formulation added to the feed stream-- .

In line 1 of each of claims 16-19 "13" has been replaced with -- 14 -- .

The following new claims have been added: --

31 (New) The method of claim 2, wherein an inert tracer is added to a formulation which is subsequently added to the feed stream.

32 (New) The method of claim 12, wherein an inert tracer is added to the formulation which is subsequently added to the feed stream. -- .

The following is an examiner's statement of reasons for allowance: Each of independent claims 3 through 9, 12 and 14 now distinguish over all of the prior art, especially over Hoots et al patent '969 of record and newly cited Hoots et al patent 5,411,889, Womack patent 5,589,076 and Bourbigot patent 5,460,723 in view of respective recitations of "monitoring substantially consisting of ...at least one inert tracer". Each of Hoots et al '969 and '889 teach monitoring of membrane system parameters utilizing fluorometric sensing of amounts of inert tracers in combination with fluorometric sensing of amounts of target species indicator concentration. Womack et al and Bourbigot are made of record to show that optical monitoring of various

parameters of membrane systems and amounts of treatment agents fed to feed streams of membranes is known. The text of language added by Examiners Amendment is supported by the Instant Specification at page 15, lines 7-18; page 16, lines 11-18; page 25, lines 13-19 and page 28, line 19 through page 29, line 3.

Additionally, each of the independent claims are now considered to distinguish over Japanese publication '140 of record in view of respective recitations of "providing at least one fluorometer in at least one of the feed stream, the first stream, and the second stream...an amount of the inert tracer". After further consideration, '140 is seen to teach only monitoring fluorescence proximate the reverse osmosis membrane to medium, itself, to detect leakage sites, and is silent as to any suggestion of quantifying amounts of tracer in any membrane stream by monitoring.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

August 25, 2004


JOSEPH DRODGE
PRIMARY EXAMINER